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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,225	02/08/2005	Masahiko Nakajima	2004_1533A	5143
513 7590 11/13/2008 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021				
EXAMINER				
LONEY, DONALD J				
ART UNIT		PAPER NUMBER		
1794				
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11/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,225

Applicant(s)

NAKAJIMA ET AL.

Examiner

Donald Loney

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CI/CDC)
Paper No(s)/Mail Date 07/10/08, 08/27/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 5 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to provide support for the new matter of end point of the ratio being less than 0.6 as amended the August 8, 2008. The specification continuously refers to the ratio being 0.3 to 0.9, with no 0.6 end point supported by the disclosure.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-326430 cited by the applicant and cited in the international search report.

JP 430 discloses a hollow plate structure wherein two dimpled panels, comprising truncated cone shaped protrusions, facing one another and attached at the end faces of the protrusions (i.e. truncated cones) as recited formed with an apparatus and process which uses two embossing rollers to form the truncated cones in each sheet. See figures 3, 4, 8 and 9. JP '430 does fail to specifically disclose the ratio of 0.3-0.6 and the 50-70 degree angle of the side surface of the cones. It is silent as thereto.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to JP '430 to form the truncated cones of what ever size and/or spacing is required for a particular application and since this would merely involve a change in shape and/or size which is generally within ordinary skill in the art.

See MPEP 2144.04IV. This change in shape and or size is what would govern the ratio as recited.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of Clark (6004652), Shorten et al (6029962) or Sell et al (6385864).

All of Clark, Shorten et al and Sell et al discloses a panel wherein two dimpled panels are fused to one another with the dimples facing against one another. The dimples are truncated cone shaped and the ends of the protrusions face one another. See figures 13a and 13b along with column 8, lines 23-44. The dimpled protrusions 61 appear truncated cone in shape. Clark does fail to specifically disclose the ratio of the area of the openings (i.e. lower base) to the circumferential surface area (i.e. area of the flat face of the sheet) along with the rising angle of the cone face being 50-70 degrees. Clark is silent as thereto. However, Clark does disclose the dimples can have varying sizes, geometries, heights, profiles, dimensions, spacings, densities and or arrangements in order to provide the panel with what ever properties are required for a particular application. See column 4, lines 4-7 and 51-53. See figures 2, 3, 4 and specifically 118 in figure 8 in Shorten et al. Shorten et al also fails to specifically disclose the ratio of the area of the openings (i.e. lower base) to the circumferential surface area (i.e. area of the flat face of the sheet) along with the rising angle of the cone face being 50-70 degrees. Shorten et al does disclose the indentations can be of a variety of shapes, and sizes as needed in order to provide the desired degree of flexibility and cushioning to the member (see column 2, lines 51-54). See figures 10, 12, 14, 16 and

18 in Sell et al. Sell et al also specifically disclose the ratio of the area of the openings (i.e. lower base) to the circumferential surface area (i.e. area of the flat face of the sheet) along with the rising angle of the cone face being 50-70 degrees. Sells et al does disclose the indentations can be of different shapes as needed for a particular application (see column 6, lines 23-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to any of the primary references to form dimples meeting the ratio and/or face angle motivated by the all the references discloses the dimples can be of varying sizes, geometries, heights, profiles, dimensions, spacings, densities and or arrangements in order to provide the panel with what ever properties are required for a particular application and since this would merely involve a change in shape and/or size which is generally within ordinary skill in the art. See MPEP 2144.04IV. This change in shape and or size is what would govern the ratio as recited.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 5 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald J. Loney/
Primary Examiner
Art Unit 1794

DJL;D.Loney
11/08/08